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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,622	10/24/2003	Jerome O. Vogedes	33692.03.3156	8796

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EXAMINER

KHAN, SUHAIL

ART UNIT	PAPER NUMBER
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2686

DATE MAILED: 09/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/692,622	VOGEDES ET AL.	
	Examiner	Art Unit	
	Suhail Khan	2686	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-5, 7-9, 11-14, 16-21 and 23-24 rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent App. No. 2004/0198471 to Deeds.

Referring to claim 1, Deeds discloses an apparatus for sender controllable modalities (complete system in figure 1), the apparatus comprising: a priority command generator (page 3, paragraph 30, controller is interpreted as being the priority command generator) capable of generating a priority command that includes a modality alert command (page 5, paragraph 42, user is able to prioritize events based on ring tones; ring tones are interpreted as being modality alert commands); a communication command generator capable of generating a communication command (page 4, paragraph 33, on pressing SEND key user initiates communication); and a transmitter (page 3, paragraph 30, transmitter) operably coupled to the priority command generator and the communication command generator such that the priority command and the communication command are transmitted to a recipient device wherein the recipient device may receive the modality alert command within the priority command (page 5, paragraph 42, user sets preferences on mobile station, mobile station receives signals that are prioritized by ring tones).

Referring to claim 2, Deeds discloses an apparatus of claim 1 further comprising: an input device operably coupled to the communication command generator such that the communication command generator generates the communication command in response to an input communication command (page 4, paragraph 33, keypad).

Referring to claim 3, Deeds discloses the apparatus of claim 2 further comprising: the input device operable coupled to the priority command generator such that the priority command generator generates the modality alert in response to an input priority command (page 4, paragraph 33, keypad).

Referring to claim 4, Deeds discloses the apparatus of claim 1 wherein the modality alert command includes instructions such that an alert is at least one of the following: a vibration, a predetermined ring tone, one or more beeps, one or more flashing lights, a wake-up command and a defined output multi-modal output modality setting (page 5, paragraph 42, ring tones).

Referring to claim 5, Deeds discloses an apparatus for sender controllable modalities, the apparatus comprising: a notification system having an internal alert modality setting (page 5, paragraph 42, program); a receiver operably coupled to the notification system (col 3, paragraph 30, receiver), wherein the receiver receives a communication command and a priority command from a sender device (page 3, paragraph 30, receiver); a verification module operably coupled to the receiver such that the verification module verifies the sender device and the priority command so that if the sender device is verified and the priority command is verified, a modality alert command is provided to the notification system to override the internal modality setting (page 5, paragraph 40, Identification; page 5, paragraph 42, program), wherein the modality alert command is disposed within a notification command (page 5, paragraph 42, ring tones) and a

notification device operably coupled to the notification system such that in response to the notification command, the notification device provides an alert in accordance with the modality alert command (page 3, paragraph 32, speaker generates ring tone).

Referring to claim 7, Deeds discloses the apparatus of claim 5 wherein the modality alert command includes instructions such that the alert is at least one of the following: a vibration, a predetermined ring tone, one or more beeps, one or more flashing lights, a wake-up command and a defined output multi-modal output modality setting (page 5, paragraph 42, ring tones).

Referring to claim 8, Deeds discloses the apparatus of claim 5 wherein the verification module further includes a memory device (page 4, paragraph 36, memory) storing a plurality of sender device identifiers and the internal modality setting such that the verification module verifies that the sender device may override the internal modality setting based on a comparison of the sender device with the plurality of sender device identifiers (page 5, paragraph 40, Identification).

Referring to claim 9, Deeds discloses a method for sender controllable modalities in a sender device, the method comprising: generating a communication command (page 4, paragraph 33, on pressing SEND key user initiates communication); generating a priority command including a modality alert command, wherein the priority command relates to the communication command; and transmitting the communication command and the priority command to a recipient device (page 5, paragraph 42, user sets preferences on mobile station, mobile station receives signals that are prioritized by ring tones).

Referring to claim 11, Deeds discloses the method of claim 9 wherein the modality alert command includes at least one of the following: a vibratory alert a ring-tone, a wake-up

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command, a text-based alert an illumination alert and a defined output multi-modal output modality setting (page 5, paragraph 42, program the ring tones).

Referring to claim 12, Deeds discloses the method of claim 9 wherein the communication command may be at least one of the following: a caller identification, a text message, an auditory message and a visual message (page 5, paragraph 42, ring tones).

Referring to claim 13, Deeds discloses the method of claim 9 wherein the step of transmitting the communication command and the priority command to the recipient device further includes transmitting the communication command and the priority command to an intermediate server prior to the communication command and the priority command being transmitted to the recipient device (page 5, paragraph 46, server).

Referring to claim 14, Deeds discloses a method for sender controllable modalities in a recipient device the method comprising: receiving a communication command and a priority command from a sender device (page 5, paragraph 42, user is able to prioritize events based on ring tones; ring tones are interpreted as being modality alert commands); verifying the sender device such that the sender device may override an internal modality setting (page 5, paragraph 40, Identification); if the sender device is verified, verifying the priority command such that the priority command has a priority level to override the internal modality setting; and if the sender device is verified and the priority command is verified, overriding the internal modality setting (page 5, paragraph 42, program).

Referring to claim 16, Deeds discloses the method of claim 14 wherein the modality alert command includes at least one of the following: a vibratory alert, a ring-tone, a wake-up

command, a text-based alert, an illumination alert and a defined output multi-modal output modality setting (page 5, paragraph 42, program the ring tones).

Referring to claim 17, Deeds discloses the method of claim 14 wherein the communication command may be at least one of the following: a caller identification, a text message, an auditory message and a visual message (page 5, paragraph 42, ring tones).

Referring to claim 18, Deeds discloses the method of claim 14 wherein the step of receiving the communication command and the priority command from the sender device further includes receiving the communication command and the priority command to from intermediate server wherein the intermediate server receives the communication command and the priority command from the sender device (page 5, paragraph 46, server).

Referring to claim 19, Deeds discloses the method of claim 18 wherein the step of verifying the sender device may be performed on the intermediate server and the step of verifying the priority command may be performed on the intermediate server (page 5, paragraph 46, server).

Referring to claim 20, Deeds discloses a system for sender controllable modalities (complete system in figure 1), the system comprising; a sending device including: a priority command generator capable of generating a priority command that includes a modality alert command (page 3, paragraph 30, controller is interpreted as being the priority command generator); a communication command generator capable of generating a communication command (page 4, paragraph 33, on pressing SEND key user initiates communication); and a transmitter operably coupled to the priority command generator and the communication command generator such that the priority command and the communication command are

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transmitted to a recipient device wherein the recipient device may receive the modality alert command within the priority command; and the recipient device including (page 3, paragraph 30, transmitter); a notification system having an internal alert modality setting; a receiver operably coupled to the notification system, wherein the receiver receives the communication command and the priority command from a sender device (col 3, paragraph 30, receiver); a verification module operably coupled to the receiver such that the verification module verifies the sender device and the priority command so that if the sender device is verified and the priority command is verified (page 5, paragraph 40, Identification), a modality alert command is provided to the notification system to override the internal modality setting (page 5, paragraph 42, program), wherein the modality alert command is disposed within a notification command; and a notification device operably coupled to the notification system such that in response to the notification command, the notification device provides an alert in accordance with the modality alert command (page 3, paragraph 32, speaker generates ring tone).

Referring to claim 21, Deeds discloses the system of claim 20 wherein the sender device further includes an input device operably coupled to the communication command generator such that the communication command generator generates the communication command in response to an input communication command and the input device operable coupled to the priority command generator such that the priority command generator generates the modality alert in response to an input priority command (page 4, paragraph 33, keypad).

Referring to claim 23, Deeds discloses the system of claim 20 wherein the communication command includes a multi-modal message such that the internal modality setting provides for an output display of the communication command and the modality alert command

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includes instructions for adjusting the form of output display for the communication command (page 3, paragraph 32, display).

Referring to claim 24, Deeds discloses the system of claim 20 wherein the modality alert command includes instructions such that the alert is at least one of the following: a vibration, a predetermined ring tone, one or more beeps, one or more flashing lights, a wake-up command and a defined multi-modal output modality setting (page 5, paragraph 42, program the ring tones).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 6, 10, 15 and 22 rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent App. No. 2004/0198471 to Deeds, in view of U.S. Patent No. 6867733 to Sandhu et al.

Referring to claims 6 and 22, Deeds discloses the apparatus and system of claims 5 and 20 further comprising: an intermediate server (page 5, paragraph 46, server), wherein the communication command (page 4, paragraph 33, on pressing SEND key user initiates communication) and the priority command (page 5, paragraph 42, user is able to prioritize events based on ring tones) may be received from the intermediate server. Deeds does not disclose a position location device such that the position location device generates a location indicator; a transmitter operably coupled to the position location device such that the transmitter transmits the location indicator to an intermediate server, wherein the communication command and the

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priority command may be received from the intermediate server based on the location indicator.

However, Sandhu et al disclose using a GPS receiver to obtain location information (col 4, lines 25-33, GPS)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Deeds to show a position location device such that the position location device generates a location indicator; a transmitter operably coupled to the position location device such that the transmitter transmits the location indicator to an intermediate server, wherein the communication command and the priority command may be received from the intermediate server based on the location indicator, as taught by Sandhu et al, the motivation being obtaining accurate position information for further calculations (Sandhu et al, col 4, lines 30-34). Referring to claims 10 and 15, Deeds discloses the method of claims 9 and 14 further comprising: generating a communication command (page 4, paragraph 33, on pressing SEND key user initiates communication). Deeds does not disclose receiving a proximity indicator indicating a location of the recipient device.

However, Sandhu et al disclose using a GPS receiver to obtain location information (col 4, lines 25-33, GPS)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Deeds to show prior to generating the communication command, receiving a proximity indicator indicating a location of the recipient device, as taught by Sandhu et al, the motivation being obtaining accurate position information for further calculations (Sandhu et al, col 4, lines 30-34).

Response to Arguments

5. Applicant's arguments filed 6/20/2005 have been fully considered but they are not persuasive.

Referring to claims 1-24, Applicant argues that Deeds does not disclose A) sender controllable modalities and priority command that includes a modality alert command; B) receiver that receives a communication command and a priority command from a sender device; a verification module and a modality alert command disposed in the notification command.

Examiner respectfully disagrees. A) In page 5, paragraph 42, Deeds shows that a user can program ring tones to identify and distinguish events. The ring tone is thus a modality alert command that prioritizes events and hence acts as a priority command. The user uses the programming feature and input (page 4, paragraph 33) to send and thus control the modalities. B) The mobile station also includes a receiver (col 3, paragraph 30) and has caller identification capabilities which provides verification of the caller, interpreted as the sender device. Ring tones 'notify' and 'alert' users about particular events hence fulfilling both limitations and thus acting as a modality alert command/ notification command.

The Sandhu et al reference was used to only show limitations not met by the Deeds reference. The Deeds reference is ascertained above. Hence, the combination of Deeds and Sandhu et al is proper and maintained as repeated above.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suhail Khan whose telephone number is (571) 272-7910. The examiner can normally be reached on M-F from 8 am to 4:30 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold, can be reached at (571) 272-7905.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

sk



CHARLES APPIAH
PRIMARY EXAMINER